

Legal Framework for Public Oversight of Prosecutorial Bodies: Problems and Prospects for Uzbekistan In Comparative Perspective

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Abstract

Public oversight of prosecutorial bodies represents a fundamental rule-of-law question: how can a state make its prosecution service transparent and accountable while preserving prosecutorial independence and investigation effectiveness? This article examines the legal framework governing public oversight of prosecutorial institutions in the Republic of Uzbekistan, identifies critical deficiencies in the current system, and proposes concrete legal reforms informed by comparative analysis of developed legal systems including the United Kingdom, United States, Germany, and France. Uzbekistan possesses substantial constitutional and legislative foundations for public oversight, including constitutional protections for freedom of information (Article 29), public participation in governance (Article 56), popular sovereignty (Article 13), and prosecutorial independence (Article 78). However, these general principles remain incompletely applied to prosecutorial bodies, resulting in a fragmented framework that does not adequately serve accountability or transparency functions. The article proposes concrete legislative reforms addressing each identified problem, with detailed explanation of the legal basis, deficiency, comparative solution, and expected legal effects.

Keywords: Public oversight; prosecutorial accountability; transparency; comparative criminal procedure; prosecutorial independence; institutional legitimacy.

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1. Introduction

Prosecutorial bodies exercise significant public authority that directly affects citizen rights and freedoms. They supervise legality, participate in criminal proceedings, conduct investigations, determine prosecution decisions, and manage substantial institutional resources. [1] This discretionary authority creates accountability challenges: without effective oversight mechanisms, prosecutorial power can be subject to abuse, political manipulation, or corruption, undermining public confidence in the criminal justice system and rule of law. [2] The United

Nations Guidelines on the Role of Prosecutors recognize that "prosecutors shall be responsible to the people for whom they work and shall pay particular regard to the public interest." [3]

For Uzbekistan, public oversight of prosecution has acquired particular relevance following significant constitutional and administrative reforms. Constitutional amendments (2023) have reinforced protections for freedom of information and public participation in governance. Presidential Decree

DP-6247 (16 June 2021) "On additional measures to

ensure openness of state bodies and organizations, as well as effective implementation of public control" expressly included prosecutorial bodies and their structural subdivisions in openness requirements. [4] However, implementation has been incomplete. Prosecutorial bodies continue to resist transparency obligations by invoking investigation confidentiality, even regarding institutional rather than investigative information. The research problem is therefore not whether public oversight is legally recognized but whether existing legal rules create coherent and effective accountability mechanisms specifically applicable to prosecutorial bodies.

2. Method

Public oversight of prosecutorial bodies refers to legally established participation of citizens, citizens' self-governing bodies, civil society organizations, and mass media in observation, assessment, and public evaluation of prosecutorial compliance with legal obligations concerning transparency, lawfulness, and protection of human rights. [5] This concept must be carefully distinguished from related but distinct mechanisms: (1) Parliamentary oversight – exercised by the legislature through formal review procedures and approval of budgets; (2) Judicial review – exercised by courts examining lawfulness of prosecutorial decisions; (3) Administrative control – exercised by hierarchical superiors within prosecutorial hierarchy; (4) Internal disciplinary procedures – exercised by prosecutorial management regarding employee conduct; (5) Anti-corruption enforcement – pursued through formal investigative and prosecutorial mechanisms. Public oversight is characterized by participation of non-state actors, reliance on transparency rather than hierarchical authority, and emphasis on civil society engagement and public participation.

The principal functions of public oversight are: (1) transparency – making prosecutorial decision-making visible and understandable to the public; (2) accountability – creating consequences for institutional failures or misconduct through public exposure and reputational pressure; (3) prevention of abuse of power – detecting and publicizing unlawful or improper conduct; (4) protection of human rights – ensuring prosecutorial compliance with constitutional and legal guarantees; (5) anti-corruption – reducing opportunities and incentives for corrupt conduct; (6) institutional legitimacy – building public trust through demonstrable accountability. [6] These functions are mutually

reinforcing: transparency enables accountability; accountability prevents abuse and corruption; effective protection of rights strengthens institutional legitimacy and public trust.

The Constitution of the Republic of Uzbekistan (adopted 1991, amended 2023) establishes several foundational principles supporting public oversight. Article 13 establishes that state power originates from the people and must be exercised in the interests of the people. [7] Article 29 guarantees freedom of information and the right to seek, receive, and disseminate information held by state bodies, subject only to legally defined limitations necessary to protect state secrets, privacy, or other constitutionally protected interests. Article 56 requires that state bodies ensure opportunities for citizens and civil society organizations to participate in decision-making concerning matters affecting public interests. These provisions establish public oversight as a constitutional requirement, not a discretionary institutional choice.

However, the Constitution also protects prosecutorial independence (Article 78) and establishes that criminal proceedings operate with appropriate confidentiality (Chapter 16, Criminal Procedure Code). [8] These protections create constitutional limitations on the scope of public oversight. Effective public oversight therefore requires differentiated transparency: transparency regarding prosecutorial institutional information, personnel, organizational structure, budgets, and aggregate statistical information must be maximized; confidentiality protections for active investigations, ongoing criminal proceedings, and personal data must be preserved. This approach enables public oversight without compromising investigation effectiveness or individual rights.

Uzbekistan's legal framework comprises several horizontal transparency laws and sector-specific prosecutorial legislation. The Law "On Public Control" establishes that citizens, citizens' self-governing bodies, and civil society organizations may participate in monitoring state institutional compliance with law. However, the statute does not specify detailed procedures applicable to prosecutorial bodies or address the specific challenges of prosecutorial accountability. The Law "On the openness of the activities of public authorities and management" (requires all state bodies to publish information about their activities, decisions, budgets, and organizational structure. [9] Presidential Decree DP-6247 (16 June 2021) expressly included prosecutorial

bodies in openness requirements, requiring publication of information about prosecutorial activities, organizational structure, and budgets.

The Law "On the Prosecutor's Office" establishes the constitutional and institutional structure of prosecutorial bodies. It recognizes prosecutorial independence: prosecutors are not subordinate to any ministry or governmental body regarding decisions in criminal matters. [10] However, the law also requires that prosecutorial bodies operate publicly, report their activities, and comply with transparency requirements. Critically, the law does not establish comprehensive mechanisms connecting these publicity obligations with the procedures and substantive requirements of the horizontal transparency laws.

Critical deficiencies in the current framework include: (1) No statutory definition of public oversight specific to prosecutorial bodies, creating legal uncertainty and facilitating resistance to transparency obligations;

(2) No established mechanism of public oversight that connects prosecutorial bodies' publicity obligations required by the Law "On the Prosecutor's Office" with the procedures and substantive requirements of horizontal transparency legislation.; (3) No formal mechanism for civil society participation in prosecutorial policy development, governance, or oversight; (4) Absence of digital infrastructure for systematic, accessible publication of prosecutorial data.

The United Kingdom demonstrates that robust public transparency is compatible with investigation confidentiality. The Crown Prosecution Service (principal prosecuting authority in England and Wales) publishes annual reports containing detailed statistical data on case outcomes, conviction rates, and acquittal rates disaggregated by offense type and geographic location.

The CPS Code for Crown Prosecutors is publicly available, establishing prosecution guidelines. The Director of Public Prosecutions is answerable to the Attorney General and Parliament. [11] This model shows that comprehensive institutional transparency can coexist with investigation confidentiality.

The United States illustrates decentralized accountability through multiple overlapping mechanisms. Federal prosecutors (U.S. Attorneys) are overseen by the Department of Justice and subject to Inspector General review. State prosecutors are

accountable to elected officials. The Freedom of Information Act establishes a presumption of public access to government records, subject to specific enumerated exemptions including active investigations, personnel information, and attorney-client privileged materials. [12] Federal and state prosecutors publish conviction and prosecution statistics maintained in public databases. The system demonstrates that federalism and prosecutorial independence are compatible with comprehensive public transparency.

Germany illustrates how civil-law systems can combine prosecutorial hierarchy with meaningful oversight. Prosecutors (Staatsanwaltschaft) operate within a hierarchical structure subordinate to the Federal Ministry of Justice and state justice ministers. Public oversight occurs through parliamentary oversight via justice committees, judicial supervision of investigative conduct, and administrative oversight by justice ministers. Prosecutorial statistics are published at the aggregate level. [13] France combines prosecutorial hierarchy with professional judicial institutions including the Conseil supérieur de la magistrature (The Superior Council of the Judiciary) and has recently implemented greater transparency in prosecutorial policies and statistical reporting. [14]

Comparative analysis reveals that effective public oversight operates through multiple complementary mechanisms: (1) publication of aggregated and anonymized statistical information about investigations and prosecutions; (2) annual public accountability reports by prosecutorial institutions; (3) establishment of performance metrics with public accountability for achievement; (4) transparent prosecutorial policies and decision-making criteria; (5) systematic complaint mechanisms with documented responses; (6) independent external review of prosecutorial compliance with legal standards; (7) media access rights balanced against investigation confidentiality; (8) civil society participation in policy development and oversight. [15] Importantly, all developed legal systems establish that effective public oversight is compatible with prosecutorial independence and investigation confidentiality.

The differences between common-law and civil-law systems reflect institutional and historical traditions, not immutable constraints. Civil-law systems (Germany, France) emphasize transparency less than common-law systems (UK, US),

but all establish that public accountability can coexist with prosecutorial independence.

Proposed Legislative Reforms

Statutory Definition of Public Oversight. The Law "On Public Control" should be amended to establish an explicit statutory definition: "Public oversight of prosecutorial bodies shall mean legally established participation of citizens, citizens' self-governing bodies, civil society organizations, and mass media in observation, assessment, and public evaluation of prosecutorial compliance with legal obligations concerning transparency, lawfulness, protection of human rights, and effective exercise of prosecutorial authority." This definition would establish legal clarity and facilitate civil society engagement.

Reform 2: Introduction of Public Oversight Mechanism for Prosecutorial Transparency Obligations. The Law "On the Prosecutor's Office" should

be amended to introduce a statutory public oversight mechanism requiring prosecutorial bodies to connect their publicity obligations (as required by this law) with procedures established in horizontal transparency legislation.

This mechanism would authorize civil society organizations, citizens, and public oversight bodies to monitor prosecutorial compliance with transparency obligations using procedures established in the Law "On the openness of the activities of public authorities and management" and the Law "On Public Control," with documented findings and recommendations regarding prosecutorial disclosure made public. This public oversight mechanism would ensure prosecutorial bodies fulfill transparency obligations rather than resist disclosure by invoking independence principles.

Reform 3: Independent Public Oversight Council. Delegate a Public Oversight Council for Prosecutorial Activities with authority to: (a) review prosecutorial compliance with transparency obligations; (b) receive and independently evaluate public complaints regarding prosecutorial conduct; (c) conduct periodic assessments of prosecutorial performance against published metrics; (d) publish annual public oversight reports identifying systemic problems and making recommendations; (e) make recommendations to the Prosecutor General regarding institutional improvements. Council composition should include representatives from civil society organizations, mass media, academic institutions,

and citizens.

Reform 4: Development of Digital Infrastructure for Prosecutorial Data Publication. The Law "On the Prosecutor's Office" should be amended to require prosecutorial bodies to establish and maintain a unified digital platform for systematic publication of institutional data, including: (a) development of official prosecutorial websites with dedicated sections for statistical information, budgets, organizational structure, and performance indicators; (b) publication of data in structured, machine-readable formats enabling public access and analysis; (c) establishment of regular automated publication schedules for quarterly and annual prosecutorial statistics; (d) integration of digital publication procedures with information access request procedures established in horizontal transparency legislation. This digital infrastructure would ensure prosecutorial data is systematically accessible to civil society, media, and the public without requiring formal information requests, thereby fulfilling transparency obligations through proactive digital disclosure rather than reactive response to individual requests.

3. Conclusion

Uzbekistan possesses substantial constitutional and legislative foundations for public oversight of prosecutorial bodies. The Constitution recognizes popular sovereignty, freedom of information, public participation in governance, and prosecutorial independence. Legislation establishes transparency obligations for state bodies and mechanisms for public control. However, the principal problem is not the absence of legislation but insufficient integration of these instruments into a coherent statutory framework specific to prosecutorial accountability.

The existing framework is fragmented; citizens seeking information must navigate separate procedures for appeals, information requests, and public-control notifications, each with different legal effects.

Implementation of proposed legislative reforms would create a coherent four-stage accountability cycle: (1) proactive disclosure of prosecutorial institutional information; (2) public observation and inquiry; (3) reasoned prosecutorial response to public concerns; and (4) institutional remediation of identified deficiencies. These reforms are legally feasible within Uzbekistan's constitutional framework and compatible with prosecutorial independence and investigation

confidentiality.

Public oversight should not mean public direction of prosecution or interference with individual case decisions. Its legitimate function is to make prosecutorial institutions transparent, accountable for lawful and effective exercise of authority, and responsive to public concerns regarding adherence to constitutional and legal standards.

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